

Message Text

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ACTION L-03

INFO OCT-01 EA-11 IO-13 ISO-00 NEA-10 CIAE-00 DODE-00

PM-07 H-03 INR-10 NSAE-00 NSC-10 PA-03 RSC-01 PRS-01

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FM AMEMBASSY TOKYO

TO SECSTATE WASHDC PRIORITY 7022

INFO USMISSION USUN NEW YORK PRIORITY

C O N F I D E N T I A L TOKYO 12407

E.O. 11652: GDS

TAGS: JA, PINS, PFOR, UN

SUBJ: CONVENTION ON PROTECTION OF DIPLOMATS

REF: STATE 184358

1. WHEN EMBOFF FINALLY SUCCEEDED IN ARRANGING JOINT MEETING WITH LEGAL AFFAIRS DIVHEAD KUMAGAI AND UN POL AFFAIRS DIVHEAD OWADA TO TAKE ACTION AS INSTRUCTED REFTTEL, IT BECAME APPARENT THAT GOJ VIEWS WERE NOT AS DIVERGENT FROM OUR OWN AS USUN AND DEPARTMENT HAD INFERRED FROM PRESENTATIONS BY YANAE AND MITTA, RESPECTIVELY.

2. OWADA STATED AT OUTSET THAT, SO FAR AS GOJ IS CONCERNED, ACTION ON THIS SUBJECT IS CENTERED IN NY. FOR THIS REASON FONOFF HAS NOT KEPT ITS EMBASSY IN WASHINGTON ABREAST OF DEVELOPMENTS. SECONDLY, UNTIL VERY RECENTLY, JUN WAS WORKING ONLY ON TENTATIVE INSTRUCTIONS BECAUSE NEGOTIATIONS WERE STILL UNDERWAY BETWEEN FONOFF AND MINISTRY OF JUSTICE.

3. KUMAGAI THEN EXPLAINED THAT JUSTICE MINISTRY HAD INDEED HARDENED ITS ATTITUDE SOMEWHAT FROM INITIAL POSITION
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BUT THEN, IN RESPONSE TO FONOFF ARGUMENTATION, SOFTENED

CONSIDERABLY. FONOFF HAD POINTED OUT THAT UNDER CHANGING WORLD CONDITIONS, MANY CRIMES CAN ONLY BE ENCOMPASSED BY UNIVERSALISM; EXPERIENCE WITH ILC INDICATES THAT MANY OTHER COUNTRIES HAVE ALREADY COME TO THIS VIEW, AND JAPAN MUST COOPERATE WITH THESE OTHER COUNTRIES IN ORDER EFFECTIVELY TO CONFRONT THIS KIND OF PROBLEM. FINALLY, JUSTICE MINISTRY OFFICIALS AGREED TO ACCEPT CONCEPT OF UNIVERSAL JURISDICTION AND FONOFF HAS ALREADY SENT NEW INSTRUCTIONS TO JUN WITH MORE DETAILED INSTRUCTIONS TO FOLLOW SOON. TSUTSUMI (HEAD OF TREATIES BUREAU INTERNATIONAL CONVENTIONS DIVISION) IS NOW IN NEW YORK AND WILL REPRESENT JUN IN SIXTH COMMITTEE, ASSISTED BY YANAI.

4. KUMAGAI SAID HE WOULD LEAVE DETAILED DISCUSSION OF THIS MATTER TO OUR RESPECTIVE REPRESENTATIVES IN NEW YORK BUT HE DID MAKE FOLLOWING GENERAL OBSERVATIONS. JUSTICE MINISTRY NOW AGREES WITH ILC DRAFT, THOUGH IT HAS RAISED SEVERAL MINOR TECHNICAL POINTS. TWO KEY ISSUES APPEAR TO BE SOLVED: (A) JUSTICE MINISTRY IS PREPARED TO ADOPT CONCEPT OF UNIVERSAL JURISDICTION, AND FORMULATION IT PREFERS IS UK PROPOSAL DERIVED FROM HAGUE CONVENTION; (B) WITH RESPECT TO PROBLEM OF MOTIVE, MOST RECENT JUSTICE MINISTRY POSITION IS THAT CRIMES TO BE COVERED BY THIS CONVENTION SHOULD EXCLUDE THOSE ACTS DONE WITHOUT RELATION TO FACT THAT VICTIM IS INTERNATIONALLY PROTECTED PERSON. FINALLY, JUSTICE MINISTRY HAS ALSO NOW ACCEPTED GENERAL CONCEPT OF "VIOLENT ATTACK" (REFTEL PARA 2 E) AND DOES NOT INSIST ON ENUMERATION OF SPECIFIC CRIMES.

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